

**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**

TROLL BUSTERS® LLC,

Plaintiff,

vs.

ROCHE DIAGNOSTICS GMBH; ROCHE  
MOLECULAR SYSTEMS; ROCHE  
APPLIED SCIENCES EUROGENTEC  
NORTH AMERICA INC.; CLONTECH  
LABORATORIES INC.; INTEGRATED  
DNA TECHNOLOGIES; LIFE  
TECHNOLOGIES CORPORATION  
QIAGEN NV.; THERMO FISHER  
SCIENTIFIC, INC.; QUANTA  
BIOSCIENCES, INC.; GENE LINK INC.;  
GENSCRIPTS USA INC.; EMD  
CHEMICALS INC.; TRILINK  
BIOTECHNOLOGIES INC.; and  
CEPHIED,

Defendants.

**CASE NO: 11-CV-0056-IEG (WVG)**

**ORDER STAYING PROCEEDINGS  
ON THE CONSTITUTIONALITY  
OF 35 U.S.C. § 292**

Defendants in this matter have challenged the constitutionality of 35 U.S.C. § 292, a federal statute affecting the public interest. Plaintiff argues § 292 is constitutional, and the government has intervened to defend the constitutionality of the statute. That issue, along with others raised in Defendants' respective motions to dismiss, is currently scheduled to be heard on Friday, August 12, 2011.

1 The constitutionality of 35 U.S.C. § 292 is currently pending before the Federal Circuit, in  
2 *United States ex rel. FLPMC, LLC v. Wham-O, Inc.*, Civ. No. 2011-1067 (Fed. Cir. 2011). The issue  
3 of § 292's constitutionality has been briefed before the Federal Circuit, and oral argument was heard  
4 on July 7, 2011, in that matter.


5 On July 6, 2011, this Court ordered the parties to show cause why the Court should not stay  
6 proceedings in this matter regarding the constitutionality of 35 U.S.C. § 292, pending the Federal  
7 Circuit's decision in *FLPMC*, Civ. No. 2011-1067. [Doc. No. 154.] Plaintiff and Defendants  
8 responded that they have no objection to the stay. [Doc. Nos. 155 & 156.] The government did not  
9 file a response.

10 The Court hereby **STAYS** these proceedings on the constitutionality of 35 U.S.C. § 292 until  
11 the earlier of November 14, 2011, or the Federal Circuit's decision in *FLPMC*. Accordingly, the Court  
12 also vacates the pending briefing deadlines on the constitutional issue. [See Doc. No. 132, at 2.]

13 Proceedings on the other issues raised in Defendants' respective motions to dismiss will move  
14 forward as currently scheduled.

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16 **IT IS SO ORDERED.**

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18 **DATED:** 7/15/11

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20 **IRMA E. GONZALEZ, Chief Judge**  
21 **United States District Court**  
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